

EXHIBIT 28

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RIMINI STREET INC. and SETH RAVIN

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ORACLE USA, INC, a Colorado
Corporation, *et. al.*,

Plaintiffs,

vs.

SAP AG, a German corporation, *et. al.*,

Defendants.

CASE NO.: 2:09-CV-01591 KJD (GWF)

Pending in CASE NO.: 07-CV-01658 PJH
(EDL) (N.D. Cal.)

**STIPULATION AND
ORDER FINDING NON-PARTIES
RIMINI STREET, INC. AND SETH
RAVIN IN CIVIL CONTEMPT**

1 WHEREAS, on August 21, 2009, Plaintiffs Oracle USA, Inc., et al. ("Oracle") filed their
2 Motion to Compel Non-Party Seth Ravin ("Mr. Ravin") to Answer Deposition Questions, and to
3 Compel Non-Party Rimini Street, Inc. ("Rimini Street") (collectively, the "Non-Parties") to
4 Produce Documents in Response to Oracle's Subpoena in the United States District for the
5 District of Nevada (Docket #1);

6 WHEREAS, the Non-Parties opposed Oracle's Motion to Compel on September 14, 2009
7 (Docket #26);

8 WHEREAS, Magistrate Judge George F. Foley, Jr. granted in part and denied in part
9 Oracle's Motion to Compel on October 13, 2009 (Docket #38) ("Judge Foley's Order");

10 WHEREAS, the Non-Parties filed timely Objections to Magistrate Judge Foley's Report
11 and Recommendations with the Court on October 27, 2009 (Docket #39);

12 WHEREAS, the Court denied the Non-Parties' Objections on November 25, 2009
13 (Docket #43) ("Judge Dawson's Order") (collectively, with Judge Foley's Order, "the Orders");

14 WHEREAS, the Non-Parties believe they have meritorious grounds to appeal the Orders;

15 WHEREAS, the Non-Parties believe the only available avenue for appeal of the Orders is
16 from an order of contempt for refusal to comply with the Orders;

17 WHEREAS, in light of the above, the Non-Parties have refused to comply with the
18 Orders;

19 WHEREAS, on December 22, 2009, Oracle filed an application for an order to show
20 cause why the Non-Parties should not be held in contempt of court (Docket #44), requesting
21 sanctions in the amount of \$15,803.50 and any other relief the Court deems appropriate and just;

22 WHEREAS, while the Non-Parties wish to avoid unnecessary motion practice, and are
23 unwilling to waive what they contend is their right to appeal this Stipulation and Order and the
24 underlying Orders, the Non-Parties are willing to stipulate to a finding of civil contempt for
25 refusal to comply with the Orders, in the form of the present Stipulation and Order (as set forth
26 below) for purposes of establishing what they contend is an avenue for appellate review.

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1 WHEREAS, Defendants in the underlying litigation have requested to file a brief in
2 connection with the appeal of this Stipulation and Order, and Oracle disagrees that Defendants
3 have any basis or right to do so but has agreed with Non-Parties, in the interest of maintaining
4 the expedited briefing schedule on appeal set forth below and without waiving any rights to
5 challenge Defendants' standing or basis to participate in the appeal, that Defendants may file a
6 brief on appeal, as specified in paragraph 8 below.

7 THEREFORE, the parties stipulate, and the Court finds, that:

- 8 1. The Non-Parties have refused to comply with the Orders.
- 9 2. The Non-Parties are hereby found to be in civil contempt of the Orders.
- 10 3. As the sole sanction for such contempt, the Non-Parties shall stipulate to the
11 Order of Contempt as set forth herein, and pay Oracle's attorneys' fees in the amount of
12 \$15,803.50.
- 13 4. Non-Parties' obligation to pay the fees awarded in this Stipulation and Order shall
14 be stayed until the earlier of (a) ten (10) days after this Stipulation and Order is entered by the
15 Court, if no appeal of this Stipulation is filed by such date; or (b) ten (10) days following
16 issuance of the mandate from the U.S. Court of Appeals for the Ninth Circuit following an
17 appeal of this Stipulation and Order and the Orders; or (c) ten (10) days after dismissal of any
18 appeal from this Stipulation and Order and the Orders. Even if such stay extends until or
19 beyond trial of the underlying action (*Oracle Corporation et al. v. SAP AG et al.*, Case No. 4:07-
20 cv-01658-PJH (N.D. Cal.)), the Non-Parties shall remain obligated to pay the sanction.
- 21 5. Nothing in this Stipulation and Order shall result in a waiver of any right of the
22 Non-Parties that otherwise exists to appeal this Stipulation and Order of contempt and the
23 Orders.
- 24 6. Oracle agrees that it will not seek to dismiss Non-Parties' appeal of this
25 Stipulation and Order, provided that Non-Parties comply with paragraph 7 below.
- 26 7. Oracle and Non-Parties will cooperate to take all reasonable steps, and file all
27 necessary papers, to request expedited briefing and hearing of Non-Parties' appeal. To that end,
28 Oracle and Non-Parties will request the Court of Appeals to order that Non-Parties' opening

1 brief be due April 1, 2010; Oracle's brief be due April 25, 2010; Non-Parties' reply brief be due
2 May 10, 2010; and the appeal be argued the week of July 12-16, 2010 (or argued August 2-6,
3 2010, if trial of the underlying action is continued). Non-Parties will file their Notice of Appeal
4 within 10 (ten) days after the Court enters this Stipulation and Order. Oracle and Non-Parties
5 will use their best efforts to stipulate as to the portions of the transcript Non-Parties intend to
6 order within 7 (seven) days after the notice of appeal is filed. Non-Parties will file in court the
7 transcript designation form 7 (seven) days after Notice of Appeal is filed. Non-Parties will
8 arrange for expedited preparation of the record by the court reporter. Oracle and Non-Parties
9 will stipulate that the Court of Appeals' mandate issue on shortened time, if needed to cause the
10 mandate to issue by October 7, 2010.

11 8. The parties have agreed that Defendants' brief is due 7 days from the filing date
12 of Non-Parties' brief (by April 8, 2010), and Defendants' brief will be limited to 7000 words. In
13 the event Defendants file a brief as set forth above, Non-Parties will not oppose any motion by
14 Oracle requesting an enlargement of its brief by 4200 words, or, if no such motion is filed, Non-
15 Parties will stipulate to Oracle's request for an enlargement of its brief by 4200 words.

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17 Dated: January 8, 2010

WILSON SONSINI GOODRICH & ROSATI

Professional Corporation

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19 By: /s/ Michael B. Levin
20 MICHAEL B. LEVIN

21 Attorneys for Non-Parties
22 SETH RAVIN AND RIMINI STREET, INC.
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BINGHAM MCCUTCHEN LLP

By: /s/ Geoffrey M. Howard
GEOFFREY M. HOWARD

Attorneys for Plaintiffs
ORACLE USA, Inc., et. al.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: January 12, 2010


UNITED STATES DISTRICT JUDGE